

Edwards, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, McCormick, McCulloch, Moore, Motley, Piner, Ripetoe, Stephens, Storey, Terrell, Thompson, Wortham—26.

NAYS—Senators Crain, McLeary, Martin—3.

NOT VOTING—Senator Douglass—1.

The President in the chair.

A message was received from the House, announcing that that body had receded from its amendments Nos. 27 and 33 to Senate Bill No. 119, "An Act to regulate proceedings in the County Courts pertaining to estates of deceased persons."

On motion of Senator Crain, the Senate adjourned until to-morrow morning at 9 o'clock.

SEVENTY-FIRST DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, July 11, 1876. }

Senate met pursuant to adjournment. President in the chair. Roll called. Quorum present. Prayer by the Chaplain.

The journal of yesterday adopted.

On motion of Senator Henry of Limestone, Senator Blassingame was excused for the day.

Senator Burton presented two petitions of the citizens of Fort Bend county, "requesting the prohibition of convict labor on plantations."

Referred to Committee on Penitentiaries.

Senator Stephens presented a petition from the grand and petit jurors of Palo Pinto county, "asking that the penal code be amended, leaving it in the discretion of the jury to assess the punishment for theft of cattle in any sum not less than \$250, or by imprisonment in the penitentiary."

Referred to Judiciary Committee No. 1.

Senator Piner, Chairman Judiciary Committee No. 2, submitted the following reports:

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 314, entitled, "An Act to ascertain the amounts due to teachers of public free schools for services rendered after the first day of July, 1873, and prior to the first day of January, 1876, and to provide for the payment of the same," have had the same under consideration, and beg leave to report it back, and recommend that it be referred to Committee on Education.

PINER, *Chairman.*

Report adopted, and the bill referred to Committee on Education.

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 91, entitled, "An Act to provide for the enforcement of final judgments in civil cases rendered in the several courts of this State," have had the same under consideration, and I am instructed by a majority of said committee to report it back and recommend that it do pass.

PINER, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill

269, entitled, "An Act to amend Section 2, of 'An Act to authorize and provide for a change of venue in civil cases,'" approved April 7, 1874, have had the same under consideration, and beg leave to report it back and recommend that it do pass.

PINER, *Chairman*.

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 313, entitled, "An Act to establish a code of criminal procedure for the State of Texas," have had the same under consideration, and beg leave to report it back, and recommend that it do pass.

PINER, *Chairman*.

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 307, entitled, "An Act regulating the *venire* in certain criminal cases," have had the same under consideration, and beg leave to report it back, and recommend that it do not pass.

PINER, *Chairman*.

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 312, entitled, "An Act to amend 'An Act to adopt and establish a penal code for the State of Texas,'" have had the same under consideration, and beg leave to report the same back, and recommend that it do pass.

PINER, *Chairman*.

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 325, entitled, "An Act to authorize the Court of Appeals to appoint a bailiff," have had the same under consideration, and beg leave to report it back, and recommend that it do pass, with the following amendments, to-wit:

Add to Section 1, the following: "*Provided*, That said bailiff shall only draw pay for such time as he may serve said court while the same is in session."

In Section 1, line 9, strike out, "four," and insert, "three."

PINER, *Chairman*.

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred House Bill No. 41, entitled, "An Act to amend the first section of an act to amend the first section of an act to amend the fourth section of an act entitled, 'An Act regulating attachments,' approved March 11, 1848, passed July 24, 1856, approved December 16, 1863," have had the same under consideration, and beg leave to report it back and recommend that it do pass.

PINER, *Chairman*.

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 188, entitled, "An Act to provide for supplying lost records in certain cases," have had the same under consideration, and beg leave to report it back with an amendment, and, as amended, recommend that it do pass.

PINER, *Chairman*.

Add to Section 3: "*Provided*, that copies of said abstracts shall be received in evidence only in such cases, and under the same rules and

regulations in and under which copies of recorded deeds are permitted to be received in evidence.

The following House Bills on the President's table, were taken up and referred to the appropriate committees:

House Bill No. 200—"An Act to define and punish sodomy."

Referred to Judiciary Committee No. 2.

House Bill No. 207—"An Act to provide for the change of venue in certain cases."

Referred to Judiciary Committee No. 1.

Senator Wortham presented a bill to be entitled: "An Act to amend Article 178 of Paschal's Digest."

Read by caption and referred to Judiciary Committee No. 1.

Senator McLeary, Chairman of Committee on State Affairs, returned Senate Joint Resolution No. 334, "Providing for the leasing and care of the block or lot of land in the city of Austin lying north of the State Capitol, and known on the map of said city, now on file in the General Land Office, as College Hill," and requested that it be referred to Committee on Public Grounds and Buildings.

The joint resolution was so referred.

Senate Bill No. 230—"An Act to establish a State detective force and provide for the government and regulation of the same," was taken up, being a special order, and on motion of Senator Crain, the bill was indefinitely postponed.

On motion of Senator Martin, the rules were suspended, and Senate Bill No. 322, "An Act to provide for the holding of District Courts when the Judge thereof is absent, or is, from any cause, disabled or disqualified for presiding," was taken up, fifty copies ordered printed, and the bill made the special order for Saturday next, at 11 A. M., and from day to day until disposed of.

On motion of Senator Crain, the rules were suspended, and Senate Bill No. 291, "An Act to regulate procedure in relation to common use of certain inclosed lands," was taken up, read third time and passed.

Senator Storey, by leave, introduced a bill entitled: "An Act to prescribe the mode of withdrawing evidences of title and other written instruments from courts in which they have been filed or offered in evidence."

Read by caption and referred to Judiciary Committee No. 1.

On motion of Senator Francis, the rules were suspended, and Senate Bill No. 184, "An Act to amend Section 2, Chapter 1, of 'An Act regulating the incorporation of cities of one thousand inhabitants or over, and to provide for the substitution and repeal of all acts heretofore passed incorporating said cities, which may be in force by virtue of any existing charter, approved March 15, 1875,'" was taken up, read third time and passed.

On motion of Senator Storey, the rules were suspended, and Senate Bill No. 251, "An Act concerning judgments and other liens upon real estate," was taken up, read second time and ordered engrossed.

Senate Bill No. 124, "An Act to provide for the incorporation of Building Fund and Loan Associations," being a special order, was taken up and read second time.

Senator Carroll in the chair.

Senator Ledbetter moved that the bill be indefinitely postponed.

Lost, by the following vote:

YEAS—Senator McLeary—1.

NAYS—Senators Ball, Brady, Brown, Burton, Crain, Edwards, Francis, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McCormick, McCulloch, Moore, Motley, Piner, Ripetoe, Stephens, Storey, Thompson, Wortham—24.

NOT VOTING—Senators Carroll, Douglass, Ford, Terrell—4.

President in the chair.

Senator McLeary offered the following amendment :

"SEC. 16. This act shall not be so construed as to conflict in any way with 'An Act concerning private corporations,' approved April 23, 1874, and no corporation formed, or to be formed under said act, shall be affected in any manner by the passage of this act."

Lost by the following vote :

YEAS—Senators Brady, Carroll, Douglass, Edwards, Francis, Ledbetter, Martin, Mcleary, Motley, Stephens, Storey, Thompson—12.

NAYS—Senators Ball, Brown, Burton, Crain, Grace, Guy, Henry J. R., Henry F. M., Hobby, McCormick, McCulloch, Moore, Piner, Ripetoe, Wortham—15.

NOT VOTING—Senators Ford, Terrell—2.

Senator McLeary offered the following amendment :

"SEC. — This act shall not be construed in any way to affect the rights or privileges of any corporation heretofore organized under 'An Act concerning private corporations,' approved April 23, 1874.

Adopted.

The bill was then ordered engrossed by the following vote :

NAYS—Senators Ball, Brady, Brown, Burton, Carroll, Crain, Douglass, Edwards, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McCulloch, Moore, Motley, Piner, Ripetoe, Stephens, Storey, Thompson, Wortham—26.

NAYS—Senator McLeary—1.

NOT VOTING—Senators McCormick, Terrell—2.

A message was received from the House, announcing the passage by that body, of Senate Bill No. 122, "An Act to fix the salaries of Special Judges, and to prescribe rules for paying the same," with amendments by the House.

On motion of Senator Edwards, the bill was taken up.

Senator Moore moved that the Senate concur in the House amendments.

Senator Storey was excused from voting on the bill.

It appearing that there was an omission in the amendments of the House, on motion of Senator Edwards, action was temporarily suspended on the bill.

On motion of Senator Thompson, the rules were suspended, and Senate Bill No. 91, "An Act to provide for the enforcement of final judgment in civil cases, rendered in the District Courts of this State," was taken up and fifty copies ordered printed.

The President, after reading their captions, signed House Bill No. 64½, "An Act to organize Commissioners' Courts and to define their jurisdiction and duties, and to provide for vacancies therein;" also, House Bill No. 289, "An Act fixing the times of holding the District Courts in the Eighth Judicial District."

On motion of Senator McLeary, the special order was postponed, and Senate Bill No. 98, "An Act to provide annual pensions for the surviv-

ing soldiers of the Texas Revolution, and the surviving signers of the Declaration of Texan Independence, and the surviving widows of such soldiers and signers," was taken up, and read third time.

On motion of Senator McLeary, Sections 15 and 9 were stricken out. The bill then passed by the following vote:

YEAS—Senators Ball, Brady, Brown, Burton, Carroll, Crain, Edwards, Ford, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Motley, Stephens, Storey, Thompson, Wortham—23.

NAYS—Senators Douglass, Francis, Grace, Ripetoe.—4.

NOT VOTING—Senators Piner, Terrell—2.

A message was received from His Excellency, the Governor.

Senator Stephens, from the Committee of Free Conference on the difference between the two Houses on House Bill No. 121, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

The Free Conference Committee, appointed to take into consideration the difference between the two Houses on House Bill No. 121, "An Act to amend Section 41, and to repeal Section 42, of an act entitled, 'An Act to amend an act to establish a code of criminal procedure for the State of Texas,' approved August 26, 1856, approved February 15, 1858; and to repeal Section 960 of an act entitled, 'An Act supplementary to and amendatory of 'An Act to establish a code of criminal procedure for the State of Texas,' approved Nov. 14, 1864,' have had the same under consideration, and have agreed to strike out the engrossed rider, and that Section 1, line 27, be amended by striking out the words, "one dollar and fifty cents," and insert, "two dollars;" also, amend Section 1, line 15, by striking out the words, "thirty-five," and insert the words, "forty-five;" and respectfully recommend that this report be adopted.

J. D. STEPHENS, *for Senate Committee.*

L. JONES, *for House Committee.*

The report was adopted.

A message was received from the House, announcing that that body has amended Senate Bill No. 122, "An Act to fix the salaries of Special Judges, and to prescribe rules for paying the same," as follows:

Add to Section 4 the following: "And that the sum of ten thousand (\$10,000) dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, for the payment of the same."

Amend the caption by adding thereto, "and to make appropriation therefor."

The consideration of Senate Bill No. 122 was resumed, and the amendments of the House concurred in, except the emergency clause, which was agreed to by the following vote:

YEAS—Senators Ball, Brady, Carroll, Crain, Douglass, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, McLeary, McCormick, McCulloch, Moore, Motley, Piner, Ripetoe, Stephens, Thompson, Wortham—24.

NAYS—None.

NOT VOTING—Senators Brown, Burton, Martin, Terrell—4.

On motion of Senator McLeary, the rules were suspended, and Senate Bill No. 179, "An Act to encourage irrigation and navigation," was taken

up and made the special order for to-morrow at 11 o'clock A. M., and from day to day until disposed of.

A message was received from the House, announcing the passage by that body of the following bills:

House Bill No. 327—"An Act to amend Article 1723(3) of the District Court Act regulating the registration of mortgages," approved May 15, 1838.

House Bill No. 196—"An Act to provide for the publication of certain decisions of the Court of Appeals."

House Bill No. 226—"An Act to amend Section 2 of an act entitled, 'An Act better defining the marital rights of parties,'" approved March 13, 1848.

House Joint Resolution No. 382—"To encourage immigration."

Senate Bill No. 109—"An Act to regulate juries in civil cases," with numerous amendments.

That the House has concurred in Senate amendments to House Bill No. 380, "An Act to amend Section 1 of an act, entitled, 'An Act to authorize the United States bonds now in the Treasury to the credit of the permanent school fund to be disposed of, and the proceeds thereof invested in State bonds; likewise, to invest, in the same manner, the funds now in the Treasury to the credit of said fund, or that may hereafter be received from all sources.'"

That the House has adopted the report of the Committee of Free Conference upon House Bill No. 121, "An Act to amend Section 41, and to repeal Section 42, of an act entitled, 'An Act to amend an act to establish a code of criminal procedure for the State of Texas,'" approved August 26, 1856, approved February 15, 1858, and to repeal Section 960 of an act entitled, "An Act supplementary to and amendatory of an act to establish a code of criminal procedure."

That the House concurred in Senate amendments to House Bill No. 895, "An Act to grant relief to the Tyler Tap Railroad Company."

Senator Ball in the chair.

Senate Bill No. 208, "An Act to amend 'An Act to regulate the proceedings in the District Court, approved May 13, 1846,'" was taken up and read second time.

Senator Edwards offered the following amendment:

Strike out, in Section 2, lines 10 and 11, the words after the words, "District Court."

Adopted.

Senator Storey moved to adjourn until this evening at 4 o'clock.

Senator Martin moved to adjourn until to-morrow morning at 8:30 o'clock.

Senator Crain moved to adjourn until to-morrow at 9 o'clock A. M.

It being the longest term, it was put and carried, and the Senate adjourned until that hour.

SEVENTY-SECOND DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, July 12, 1876. }

Senate met pursuant to adjournment. President in the chair. Roll called. Quorum present. Prayer by the Chaplain.
Journal of yesterday adopted.